

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON,

Plaintiff,

VS.

C. A. No: 05-11073 NG

**METROPOLITAN LIFE
INSURANCE COMPANY, KEMPER
INSURANCE COMPANY,
MORGAN STANLEY DW, INC.,
MICHAEL B. LATTI, LATTI
ASSOCIATES, and LATTI &
ANDERSON LLP,**

Defendants.

**METROPOLITAN LIFE INSURANCE COMPANY'S
MOTION IN LIMINE
TO DEEM ADMITTED THAT KEMPER INSURANCE COMPANY
STANDS IN THE SHOES OF JENNY C., INC.**

ORAL HEARING REQUESTED

Defendant, Metropolitan Life Insurance Company (hereinafter “MetLife”), moves for an Order deeming admitted the fact that Kemper Insurance Company (“Kemper”), as a successor in interest to American Motorists Insurance Company, for purposes of this litigation, is subject to and possessor of the same duties and rights as Jenny C., Inc. by its own admission in open Court.

On or about January 28, 2008 Attorney Timothy O’Driscoll, counsel for Kemper, made an open court admission that Kemper “stood in the shoes” of Jenny C., Inc. *See Affidavit of Attorney Peter LeBlanc* attached as Exhibit “A”. The reasoning behind this admission is that American Motorists Insurance Company (now part of “The Kemper Group”) was the excess liability insurance carrier for Jenny C., Inc., defendant in *Dennis J. Dimon v. Jenny C., Inc.*, C.A.

No. 81-0063 (USDC RI) and in part liable for the damages that Mr. Dimon suffered from Jenny C., Inc.

MetLife seeks an order from this Court deeming as admitted Kemper's admission and the fact that Plaintiff's claims against Kemper are those that he would have had against Jenny C., Inc.

WHEREFORE, Metropolitan Life Insurance Company prays that at the Trial of this matter this Court issue an Order deeming admitted the fact that Kemper Insurance Company ("Kemper"), as a successor in interest to American Motorists Insurance Company, for purposes of this litigation, is subject to and possessor of the same duties and rights as Jenny C. Inc.

REQUEST FOR ORAL ARGUMENT

MetLife respectfully requests pursuant to Local Rule 7.1(D) that the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife's Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak
James J. Ciapciak, BBO # 552328
Peter M. LeBlanc, BBO # 645302
CIAPCIAK & ASSOCIATES, P.C.
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Norwood, MA 02062
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 12, 2008.

/s/ James J. Ciapciak

James J. Ciapciak

A

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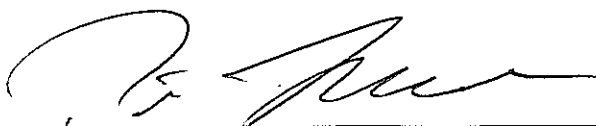
Defendants.

AFFIDAVIT OF PETER M. LEBLANC

I, Peter M. LeBlanc, upon oath, hereby depose and say:

1. I am employed by Ciapciak & Associates, P.C. in an associate attorney position.
2. This Affidavit is filed in support of Metropolitan Life Insurance Company's Motion In Limine To Deem Admitted That Kemper Insurance Company Stands In The Shoes Of Jenny "C.", Inc.
3. I attended the Court Conference on January 28, 2008. This conference was also attended by James J. Ciapciak, Esq.; Timothy O'Driscoll, Esq.; and Brian Keane, Esq.
4. During this Conference, Kemper Insurance Company's attorney of record, Mr. O'Driscoll stated that his client stood in the place of the Jenny "C.", Inc.

SUBSCRIBED AND SWORN TO UNDER THE PAINS AND PENALTIES OF PERJURY,
THIS 12 DAY OF MAY, 2008


Peter M. LeBlanc